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subject

file 322

1952

30 June 1952

Personnel Director

Office of General Counsel

Quarters Allowances for Military Officer Personnel

- REFERENCES: (1) Memorandum from Personnel Director to General Counsel, dated 20 May 1952
(2) Memorandum from Chief, PE to Chief, Military Personnel Division, dated 2 May 1952
(3) Memorandum from Colonel [REDACTED] to Chief, Military Personnel Division, dated 2 May 1952, forwarded by Personnel Director on 17 June 1952.

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1. The referenced memoranda request a clarification of the application of section 6.7c of the Confidential Funds Regulations which provides in part:

6.7c—"...For the purpose of applying this regulation, the total base pay, longevity, subsistence and quarters allowances paid military personnel by the parent service will be considered as basic remuneration." (Underlining added)

This provision is also included in 14.4c of the CFR's.

2. The apparent interpretation that is gathered from the referenced items is that a military officer, assigned to this Agency and serving overseas, (a) may draw his normal quarters allowance from the parent service and, in addition, be furnished quarters by this Agency, Reference (2), or, (b) may be furnished quarters by this Agency and, in addition, be paid a quarters allowance by CIA as reimbursement for the loss of military quarters allowance. Reference 3. Such interpretation is not entirely correct for the reasons set forth herein.

3. The laws governing the payment of basic allowance for quarters provide that no basic allowance for quarters shall accrue (a) to members of the uniformed services assigned to Government quarters or housing facilities under the jurisdiction of the uniformed services, appropriate to their rank, grade, or rating and adequate for themselves and dependents, if with dependents; (b) to any member of the uniformed services without dependents while on field duty, unless his commanding officer certifies that he was necessarily required to procure quarters at his own expense, or while on sea duty; and (c) no member of the armed services assigned to Government quarters or housing facilities under the jurisdiction of the uniformed services shall be denied his basic allowance for

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quarters if, by reason of orders of competent authority, his dependents are prevented from occupying such quarters. In addition, the Department of Defense requires that when an officer draws a quarters allowance for dependents from the parent service, he must certify, bi-annually, that his dependents "are not occupying public quarters (except for brief visits in quarters assigned to another officer) and that the above-named dependent is not a member of the armed forces on active duty."

- (1) The Comptroller General has ruled in 21 Comp. Gen. 1065, 28 May 1942, and 27 Comp. Gen. 479, 27 February 1943, that the furnishing of quarters to a service member (in his official capacity) and his dependents, by a foreign Government without cost to the service member, is in fact a furnishing of quarters on behalf of the United States, and the service member is not entitled to basic allowance for quarters for dependents.

"...while no particular difficulty is encountered in determining the pay and source of the allowances to which such personnel are otherwise entitled, before their entitlement to rental or quarters allowances can be determined, the law requires that it first be ascertained whether or not they are being furnished quarters by, or on behalf of, the United States. If they are being furnished quarters by a foreign government, the fact that they may be expressly authorized by law to accept such quarters is immaterial."
(27 Comp. Gen. 479 at 482) (Underlining added)

4. In answer to reference (2), the foregoing considerations are controlling. Quarters furnished by this Agency, or quarters allowance in lieu thereof, would normally prohibit the receipt of quarters allowance from the parent service where the service member is accompanied by dependents, if any. In consequence, Lt. Colonel [REDACTED] may not accept quarters allowance from his parent service and retain it for his own benefit. However, if Lt. Colonel Perrine is separated from his dependents by orders of this Agency or his parent service, he may be furnished quarters by this Agency and may also draw quarters allowance for dependents from the parent service.

5. In answer to reference (3), the considerations set forth in paragraphs 3 and 4 above, point up the fact that it would be legally objectionable to construe the CFR's as authorizing two quarters allowances for members of the military service assigned to this Agency, except in the situation of separation from dependents.

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6. In those operational situations where service with this Agency requires expenditures beyond the normal that might be expected of a person of similar grade on duty with the parent service, the regulations make provision for reimbursing the additional cost.

7. As to that portion of 6.7c and 11.10 which has been brought into question, the introductory clause states, "For the purpose of applying this regulation..." In accordance with that introduction, the sentence as a whole establishes the basis for assimilated grade which is necessary for allowances granted in accordance with civilian grade. The sentence may not be used as authority for an allowance prohibited by law.

8. The subject correspondence indicates that paragraph 7 of the Letter of Instruction does not entirely serve its purpose as a matter of "instruction" for the military officer departing for overseas service. It is therefore the suggestion of this office that the letter be re-edited with a view toward expressing the intent desired by the Agency in any given case.

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